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ABSTRACT

A charter school is an autonomous entity that operates on the basis of a charter or contract between the individual or group (teachers, parents, and others) that organizes the school and its sponsor (local school board, county, or state board). Once granted a charter, the school receives educational formula-driven funding as though it were a public school district. This document provides an update of charter-school issues. The first sections define charter schools and describe charter-school experiences across the country--in Minnesota, California, Georgia, Massachusetts, Mississippi, New Mexico, and Wisconsin. Proponents argue that charter schools are voluntary and offer true decentralization, contract-based accountability, greater professional opportunities for teachers, and increased educational choices for students. The following key policy considerations are also examined: sponsorship, compliance with state laws/rules, the mechanics of funding, governance, overcoming resistance, the inclusion of private schools, the state role in providing technical assistance, and cost. A conclusion is that the potential benefits of establishing charter-school legislation outweigh the impending legislative policy battles. A matrix that compares charter-school laws is included. (LMI)

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CHARTER SCHOOLS:
A GLANCE AT THE ISSUES[1]

Policy Brief *November 1993*

by

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Introduction

Despite the efforts of many dedicated professionals from within and outside the educational arena, the search for educational excellence is far from over. Many argue that the traditional structure of the public education system is outdated, and that systemic organizational restructuring must occur. In response, a host of ideas are offered to "restructure" the system, including choice, outcome-based education, accountability, autonomy, competition, market-driven schools, innovation, site-based management, and teacher empowerment. How best to create changes which draw upon these ideas and which mitigate to some degree the "top-down v. bottom-up" controversy is a central question whose answer may lie in something called the charter school.

What Are Charter Schools?

In its "purest" form, a charter school is an autonomous entity which operates on the basis of a charter or contract between the individual or group (e.g., teachers, parents, others) which organizes the school and its sponsor (e.g., local school board, county or state board). The charter or contract specifies such items as the educational plan for the school, specific educational outcomes and how they will be measured, the management plan for the school, and how the school will comply with other stated requirements.

Once granted a charter, the school begins to receive educational formula-driven funding as if it were a public school district. The charter is in effect for a specified period of time, during which the school is accountable to the sponsor and the parents for the students' attainment of specific educational outcomes. In exchange for accountability, the charter school may be freed from many (or all) of the district and state regulations that may prevent innovation. When the initial charter contract is up, if the school is meeting its student education outcomes, has not violated any laws, or grossly mismanaged its affairs or budget, it can be renewed. If a charter school fails to attain outcomes as specified in its charter contract, the school goes out of business. Viewed as a departure from the standard format currently used to create and run public schools, charter schools are being promoted around the country as a means of integrating

[1] This policy brief summarizes information contained within a more comprehensive report, *Charter School Update: Expansion of a Viable Reform Initiative* (October 1993), available from Morrison Institute for Public Policy, Arizona State University.

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many of the restructuring ideas that heretofore have met with resistance. Operating as an existing public or private school under a charter contract, a school-within-a-school, or as a newly created entity, it is believed that charter schools may provide more educational options for students, parents, and teachers.

It is important to note that the charter school concept is fairly new and has only been implemented to some degree in eight states. Specific implementation mechanics vary from state to state, dependent on educational needs and political climate. Therefore, no one definition or best means to implement charter school provisions exist. This briefing presents a more aggregate analysis of the concept.

What's Happened So Far Across The Country?

Minnesota: The first state to grapple with the charter school idea, Minnesota initiated "outcome-based schools" (i.e., charter schools) legislation in 1991. This law authorized the creation of up to eight legally and financially autonomous schools to be organized by certified teachers and sponsored by local school districts. During the 1992/93 school year, two of the eight permissible charter schools were operational. The first is located in a donated city recreation building in St. Paul and offers a year-round program for 35 at-risk adolescents and young adults, ages 13-21. The second, a private Montessori school, was converted to charter status in March 1993, educating children from kindergarten through grade six. Another four schools began operating under their charters during Fall 1993. The program offerings at these schools are diverse, including a school for deaf students, a vocational/technical school, and a pre-K through grade 12 school emphasizing the needs of at-risk students. The other schools also utilize various innovative practices such as multi-age classrooms, thematic learning, extensive parent involvement, year-round education, extended school day, and multicultural curricula.

During Spring 1993, the Minnesota legislature modified their charter school statutes to allow the inclusion of 12 additional schools (20 total). An appeals process to the state board of education was added, previously excluded due to strong opposition from local school boards. Minnesota has the only legislation that does not prohibit private schools from applying for charter status.

California: Legislation passed in September 1992, allows the creation of up to 100 charter schools in the state. Any individual can circulate a charter school petition which must receive sponsorship by the local school district or can be appealed to the county board of education. Whether a school receives legal autonomy is dependent upon the provisions of the charter agreement. Schools receive total funding independent of their school districts, although funding does flow through the districts before reaching the charter schools. To date, 40 schools have received approval, with a few operating under their charter beginning Fall 1993. Most, however, will begin operations as charter schools in 1994. This delay is due primarily to many of the charters being adopted as "developmental" (i.e., more details need to be developed prior to charter school conversion).

Like Minnesota, the California charter schools describe a wide variety of innovative strategies to be employed. However, unlike Minnesota, California has approved two charters using a home schooling approach in which the school operates as a resource center. In addition, one school will operate an English as a second language (ESL) curriculum; another school will utilize Edward Deming's theory of Total Quality Management.

During Spring/Summer 1993, legislators in six more states enacted some form of charter school law. The new legislation is varied in its conception of charter schools and warrants brief exploration here.

Colorado: Passed in June 1993, legislation permits no more than fifty charter schools to be created prior to July 1997; at that time, the ceiling is removed. Any individual or group

can enter into a charter school agreement with the local school board if "adequate" support from parents, teachers, and pupils is obtained. A charter school remains under legal authority of its school board, but receives at least 80 percent of per pupil funding from the district. Two schools have already been approved; several more are pending.

Georgia: Passed in 1993, this legislation allows an unlimited number of charter schools to be converted from existing public schools. Public school personnel may apply to the state board for charter status if the local board gives approval, if two-thirds of the faculty and staff approve, and if parents present at a meeting to initiate a charter school petition give their support. Schools are not legally autonomous from their districts, and the amount of funding is to be negotiated in the terms of the charter agreements. Charter agreements are to emphasize school improvement and student outcomes. It is anticipated that school proposals will be considered during Fall 1993, once the specifics of implementation are addressed by the state board.

Massachusetts: Part of a comprehensive school reform package, this state's charter school component will not be implemented until September 1995. Twenty-five public charter schools are permitted, in which two or more certified teachers, ten or more parents, or any other individual or group, may enter into a charter agreement with the state secretary of education. Other than Minnesota, Massachusetts has the only legislation that automatically grants charter schools legal and financial autonomy.

Missouri: Missouri's "New Schools Pilot" is a more formative version of the charter school concept. It is designed to test a revised management system within three existing school sites that volunteer to participate for a five year period beginning July 1995. Local school boards will apply to the state board of education to participate. Each site will implement a five member management team with two members permitted to be exempt from certification requirements. The functions of this management team are (at a minimum) to deal with all staffing and personnel decisions. The state board of education has autonomy to waive and implement rules for these schools.

New Mexico: Passed in 1993, New Mexico's legislation allows five existing public schools to be granted charter school status by the state board of education. Charter schools will continue to function under the legal authority of school districts, and administrative costs may be withheld by the districts. Regulations will be developed by the state board of education by Spring 1994, at which point applications for charter schools will be processed. In the meantime, the state board of education has provided ten schools with planning grants of $5,000 each.

Wisconsin: Legislation passed in August 1993, requires the state superintendent of education to approve the first ten charter school requests received. Charter schools can be created two ways. First, after receiving a petition from an individual (signed by at least ten percent of the teachers at the school district or 50 percent at one school and receiving approval from the state superintendent of public instruction), the school board must hold a hearing, and if adequate employee and parent support are determined, may grant the petition. Under this provision, a school board may also convert all of its schools to charter status (a maximum of two per district) if the petition is signed by at least 50 percent of teachers employed in the district, and it provides alternative public school arrangements for children not wishing to attend charter schools. Second, the school board can generate its own proposal and seek approval from the state superintendent and contract with a group or individual to operate the school. Regardless of the method used to create charter schools, they remain under local school district control and the level of funding is determined within the terms of the charter agreement. The state superintendent has already approved the first ten district generated requests; two more districts are on a waiting list.

During the past three years, attempts to pass charter school legislation have also taken place

in several other states including Arizona, Connecticut, Florida, Louisiana, Michigan, New Jersey, Pennsylvania, Tennessee, and Wyoming. In each case, the debates surrounding the issue have been extensive.

In addition to state level activity, charter schools were also proposed (but not enacted) at the national level in 1992 within both S.2, the Senate's Neighborhood Schools Improvement Act, and in HR 4323, the House Education Improvement bill. As of November 1993, start-up funding slated to go directly to charter schools was included within the proposed reauthorization of the Elementary and Secondary Education Act. It is anticipated that Congress will begin reauthorization hearings for the Act in the Spring of 1994.

Finally, many local school systems have adopted their own version of charter schools, giving schools more control over budgets and curriculum. A term unheard of just a few years ago, has now become part of state and local educational reform debates across the nation.

What is the Appeal of Charter Schools?

There are several reasons why charter schools are gaining attention around the country. First, charter schools address the issue of improving *educational choice* for students, parents, and teachers. For teachers, charter schools offer a chance to work in autonomous, innovative schools that utilize different philosophical approaches, educational programs, teaching methods, and assessment tools, and provide new professional development opportunities.

Charter schools also subscribe to American democratic *ideals of the common school.* They ideally are tuition-free; non-selective in student admissions; non-sectarian; and cannot discriminate on the basis of race, religion or disability. Although private schools can be brought into a charter school program, it is expected that they meet the same standards as other public schools seeking charter status and public funding.

Charter schools also address the issue of *decentralization* in a way that traditional site-based management activities may not. For example, in Minnesota, charter schools are autonomous legal entities. They make all their own administrative and instructional decisions and are legally liable for them. This prevents problems encountered when schools are site-base managed, but the district remains liable for the decisions made by school teams. In accord with this notion of autonomy, schools generally receive their funding directly from the state as if they were school districts. This financial autonomy component has been adopted to varying degrees within the other charter school states.

Many in education argue that given the restrictions and regulations imposed upon schools, creating truly different, innovative schools is nearly impossible. Charter schools address this problem directly by creating a unique trade-off between *autonomy* and *accountability*. After a proposal is approved by a local school board or other authorized sponsor, charter schools are generally left alone to manage their own affairs. However, in exchange for this autonomy, they are accountable to their sponsors for the student outcomes promised in their charter agreement.

Finally, advocates of a more *market-driven* education system believe charter schools are a significant step in the right direction. By definition, these schools will be designed to attract educational consumers, thus introducing competition within the educational system.

What are Key Policy Considerations?

The following represent some, but not all, key questions that need to be addressed by policy makers when they consider charter school legislation.

- ***Who should sponsor?*** It seems imperative that states considering adopting charter schools must give sponsorship serious consideration--identification of a cooperative sponsoring body is instrumental to successful

operation of a charter schools program. Local school boards appear likely candidates, especially when legal liability remains with the district. Problems could easily arise when districts are not involved in sponsorship in any way, but must be legally and fiscally responsible for the charter school. Providing two different sponsoring agents with one being local districts would still allow the opportunity for progressive districts to undertake a new policy role focused on educational outcomes and evaluation of progress, while still allowing an "appeal" when districts are unwilling to sponsor.

▸ ***Which state laws/rules should charter schools be held to?*** Given recent calls to remove state and local-level barriers to restructuring as well as the need for higher levels of accountability, charter schools appear to offer a viable structure for state reform. Many current state laws and rules focus on program/fiscal accountability requirements, certification standards, and schooling minimums (e.g., length of day/year). What California, Minnesota, Georgia, and Wisconsin have attempted to do is identify the minimum "outcome" requirements and passed legislation that freed their charter schools from focusing on other less essential requirements included within the education code. The other states allow certain components of the education code be waived either by the state board or within individual charter agreements.

In trying to identify minimum requirements for charter schools, policy makers should not go through every education-related law and rule to identify which should and should not apply. Instead, a general set of minimums should be identified that focus on high standards and outcomes for students, guarantee nondiscriminatory procedures, and ensure the health, safety, and welfare of students. Then, through the process of working with a smaller group of charter schools during the first few years of the process, additional safeguards/standards can be included if needed.

▸ ***What about the mechanics of funding?*** One of the concerns with traditional school-based management activities is that personnel at the school-level end up with a very limited portion of their budget to actually manage. With the exception of Colorado and Wisconsin, charter schools have control over nearly 100 percent of the funding currently generated through the students they serve. However, with this decentralized funding several real concerns arise. First, the mechanics of actually implementing such a system are often overwhelming. Second, given that many administrative-type services currently provided by the district office (e.g., transportation, accounting, personnel background checks) result in economies of scale, it may be difficult for charter schools to support such tasks.

The loss of economies of scale issue is a viable concern, however, it also is not great enough to prevent progress. In most states, the laws simply state what funds will and will not be available to those considering the charter school concept. It is then up to the individual organizers to decide if they can run a school on this amount of funding. Minnesota state personnel noted that part of their technical assistance support is to help interested organizers develop a "small business plan" which seriously looks at what finances they will actually have available to them. Through this process of planning, potential organizers can determine the feasibility of operating their school on the funding driven by their student count. This "ounce of prevention" process should be considered in other states.

▸ ***Who should govern charter schools?*** Much debate has already occurred in states that have considered the initiation of school site management teams. Should the legislature prescribe in law the exact composition of such a team? How should it be formed (elected v. appointed)? What specific powers should it have? Unfortunately, evidence from existing site-based managed programs across the county reveals pros and cons with each scenario.

The approach taken in the states is varied in reference to prescribing management configurations. State provisions, however, must involve a level of "trust" in that certain details are left to be worked out between the school and its sponsor. Once again, if the total number of allowable charter schools is kept fairly small, these types of issues can be worked out within the pioneering communities. Although it appears that certain minimums are important, additional specificity can be added to the law at a later date if concerns arise.

▸ ***How can resistance be overcome?*** In most states, the development of charter schools will be viewed as a significant threat to the traditional roles of school board members and the collective bargaining power of teacher units. To this end, policy makers need to obtain feedback from these groups as legislation is considered and to help members of these groups realize their potential new roles. For example, in California many local school boards may actually gain power by being able to develop performance-based charters with some or all of their schools and in turn the board and the schools will be freed from most state regulations. Teachers also have much to gain by having a stronger voice in their school's overall focus and management.

Just as important as good communication, is the need to maintain the "voluntary" nature of the charter school concept. Although state-mandated decentralization would result in extensive changes more quickly, the amount of negative energy created by local resistance to such mandates tends to offset real progress. Instead, charter school offer a voluntary means for teachers and others who are ready to take on this new challenge.

Finally, it is important to include some mechanism to ascertain the "real" support of teachers and parents in a given community seeking to establish a charter school, especially if considering the conversion of an existing school. The potential in-fighting that could result from the efforts of organizers when no support exists could threaten the effective operation of an existing school as well as the conversion process if the school is approved. Even teachers who develop plans for a new school may find great opposition from their colleagues and administration who may view the plans as an attempt to say that the current school is somehow faulty.

▸ ***What about private school inclusion?*** One of the key issues that needs to be addressed is whether to allow private school participation in a state's charter school program. Minnesota is the only state that allows existing nonsectarian private schools to be eligible for charter status, while in California no currently operating private school is eligible (although it was noted that a private school could be eligible if it dismantled or chose to create a new public school from scratch). All other state legislation specifically forbids the inclusion of private schools.

▸ ***What role should the state play in providing technical assistance?*** One rationale for including private schools is that many have effective educational programs and have already developed some of the characteristics that charter schools are trying to promote. A key argument against inclusion is that a level playing field does not currently exist given the admission selectivity of private schools. However, provisions similar to Minnesota's whereby private schools are eligible if they agree to meet those state laws applicable to charter schools, may make this option more viable. This decision appears to be primarily a political issue, although if large numbers of private school students become involved, it also becomes a financial issue.

To date, allocations for technical assistance have not been included in any state, although the department of education is to provide assistance in implementing charter schools in four of the eight states. If, however, a state wishes to ensure that charter schools are implemented as quickly and smoothly as possible, the state could play an important role in providing technical assistance and overseeing an appeals process. Support to help potential charter schools develop a small business finance plan and comprehensive

charter provisions should be provided, especially if a state heretofore had not provided additional support for staff development.

▸ ***Will charter schools cost more?***
Always a key question in tight fiscal times, the answer to this question is, it depends. If programs are voluntary and begin with a very small percentage of their total school population, charter schools are not really a major financial burden. However, if a state chose to implement a program that was mandatory and/or hoped to include a very large percentage of schools immediately, then additional funding for technical assistance would be necessary. In addition, funding may be necessary if a state or county appeals process is established. However, the amount would not necessarily need to be that significant (e.g., $75,000). The potential advantages of this type of support for a charter school concept makes such an appropriation worth considering.

Finally, if private school students are permitted to participate, additional costs may be incurred since states are currently not paying for their education. Some propose that a smaller portion of state funding per pupil could be provided, therefore "saving" money on each public school student that moves to a private charter school. However, if one goal is to have charter schools be tuition-free, then this approach would not be as feasible since participating private schools could not use tuition to augment their funding.

Will Passing Charter School Legislation Be Easy?

The legislative experiences of most of the states have demonstrated that passing charter schools is not an easy process and often requires compromise. Strong opposition can be expected from teacher unions, school boards, and others who had a stake in the status-quo.

Overall, however, the potential benefits of establishing charter school legislation--especially as they relate to pulling together the various educational reforms--outweigh the impending policy battles. This is especially true for states in which "gridlock" has occurred. Offering a program that is voluntary, provides for true decentralization, includes contract-based accountability, offers greater professional opportunities for teachers, and creates more educational choices for students, parents, and teachers, is worth exploring. Will it be easy? Evidence in Minnesota, California, and several other states that have tried suggest not. Will it be worth it? Only time will tell as more states take on the task of negotiating outcome-based "charter schools" provisions as part of their continued search for educational excellence.

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COMPARISON OF CHARTER SCHOOL LAWS*

STATE YEAR PASSED	MINNESOTA 1991	CALIFORNIA 1992	COLORADO 1993	GEORGIA 1993	MASS. 1993	MISSOURI 1993	NEW MEXICO 1993	WISCONSIN 1993
Number Allowed in State	originally 8, increased to 20 in 1993	100	50 up to July, 1997, after which limit is removed	no limit	25; # of charter students not to exceed .75 of 1% of public school students	3	5	10
Automatically Free from State Education Code/ District Rules	yes	yes	no, only from state/district policies as agreed to in charter	yes, possibly most; or from state/district policies as agreed to in charter	—	no, state board of education may waive rules and regulations	no, must apply to state for waivers	yes
Legally Autonomous	yes, organized as non-profit or cooperative	depends on charter	depends on charter	no, under local board authority	yes, organized as corporation	no, under local board authority	no, under local board authority	no, under local board authority
Autonomous for 100% Funding	yes	yes	no, get at least 80%	no, funding amount established in charter	yes	not yet determined	no, appropriate administrative costs can be withheld	no, funding amount established in charter
Length of Charter	up to 3 years	up to 5 years	up to 5 years	3 years	5 years	5 year Pilot Project	5 years	up to 5 years
Private School Eligibility for Charter Status	yes, but must follow charter school laws	no	no	no	no	no	no	no
Organizers	licensed teachers	any individual can circulate a petition to start a school	any individual or group	any Georgia public school faculty/staff	≥ 2 certified teachers, or ≥ 10 parents, or any other individuals or groups	local school board	existing school personnel and parents	any individual or the local school board
Sponsor	any local school board	the local school board	the local school board	the local school board	state secretary of education	state board of education	state board of education	the local school board
Final Approval	state board of education	none needed	none needed	state board of education	none needed	none needed	none needed	state supt. of public instruction
Appeals Process	state board of education	county board of education	state board of education	state board allows resubmission of petition	none	none	none	none
Support Needed from Teacher/Staff/ Parents	90% of teachers at the school	10% of teachers in school district or 50% of teachers at a school in the district	"adequate number" of parents, teachers, pupils	≥⅓ of faculty and staff ≥⅓ parents in meeting to initiate petition	—	—	65% of faculty, and parent involvement and support	10% of teachers in district or 50% at one school in district required in some cases

* This matrix is part of an extended table found in the full report, *Charter School Update: Expansion of a Viable Reform Initiative (October 1993)*, available from Morrison Institute.
— = not addressed in legislation

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